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The Secretary of State presents his compliments to Their Excellencies, and Messieurs and Mesdames the Chiefs of Mission and has the honor to announce the newest version of the accreditation policy handbook by the Office of Foreign Missions (OFM). This handbook is intended to inform foreign missions and international organizations of the Department's rules regarding notification and accreditation of personnel and their families.

The enclosed handbook supersedes all prior circular notes on the subject of notification and accreditation with respect to the missions and individuals covered by the document. Nothing in the handbook shall be construed as preventing the Department from applying the provisions of the policy restrictively on a basis of reciprocity or according more favorable treatment than that which is set forth in the handbook on the basis of existing and future bilateral arrangements.

Enclosure:

As stated.

Department of State,

Washington, October 31, 2018.

A handwritten signature in blue ink, consisting of stylized, overlapping loops and a long horizontal stroke extending to the left.



OFFICE OF FOREIGN MISSIONS  
US DEPARTMENT OF STATE

# Accreditation Policy Handbook

**ACCREDITATION POLICY HANDBOOK**  
**OFFICE OF FOREIGN MISSIONS**  
**October 30, 2018**

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# 1 OVERVIEW

## 1.1 Introduction

This handbook informs foreign missions of the Department's rules regarding notification and accreditation of foreign mission personnel and their dependents. The rules herein are intended to be consistent with the Vienna Convention on Diplomatic Relations (VCDR), Vienna Convention on Consular Relations (VCCR), International Organizations Immunities Act (IOIA) (22 U.S.C. § 288 *et seq.*), Foreign Missions Act (FMA) (22 U.S.C. §§4301-4316), Immigration & Nationality Act (INA) (8 U.S.C. § 1101 *et seq.*), and other applicable treaties and U.S. laws. This document supersedes all prior circular notes on the subject of notification and accreditation with respect to foreign missions.

Nothing in this document shall be construed as preventing the Department from applying the provisions of this policy restrictively on a basis of reciprocity or according more favorable treatment than that which is set forth herein on the basis of existing and future bilateral arrangements.

Foreign missions are required to notify the Department promptly of the appointment and termination of duties of **all** members of the staff, including all locally engaged (LE) staff and part-time employees, and members of their families. Foreign missions must also promptly notify the Department of any changes in status of foreign mission personnel, such as admission to legal permanent resident (LPR) status, changes in position, or changes in family (such as the birth or adoption of a child; the arrival of a spouse, parent, or child from abroad; the departure from either the household or country, or death, of any family member; changes in marital status; etc.).

These reporting requirements enable the Department to maintain accurate records of foreign mission personnel in the United States and are essential to continued enjoyment by personnel of the rights, privileges, and immunities which they may enjoy in the United States. In addition, because information about immunities is used for various purposes, the Department wishes to ensure this information is as accurate as possible, particularly for publications (i.e., the Diplomatic List) and for providing guidance to law enforcement and other federal, state, and local officials, as appropriate.

**The notification of all employees, including U.S. citizens and LPRs, is also important to avoid running afoul of the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. §§ 611-21. Section 3 of that Act (22 U.S.C. § 613) requires the recognition of every employee's official status and knowledge of his/her activities by the Secretary of State in order to establish exemption from the requirement of registration as a foreign agent with the Department of Justice.**

Further, foreign missions are responsible for maintaining accurate and comprehensive records of all employed personnel.

In accordance with Vienna Conventions, the acceptance of accreditation for foreign mission personnel is solely within the discretion of the Department, subject to reciprocity and the criteria below. Requests for exceptions to these guidelines will be considered on the basis of reciprocity or in truly extenuating circumstances.

Foreign missions may email related questions to [OFM-FMMA@state.gov](mailto:OFM-FMMA@state.gov) and are reminded that the address [OFM-Accreditation@state.gov](mailto:OFM-Accreditation@state.gov) is no longer in use.

## 1.2 Not Covered in This Document

- This handbook does not address rules specific to employees accredited to or employed by the United Nations (UN), please visit the website of the U.S. Mission to the UN at <http://usun.state.gov/about/6632/6637>.
- This handbook does not address rules specific to the accreditation of bilateral chiefs of mission (including the *agrément* process), *chargé d'affaires*, deputy chiefs of mission, and their families. Please direct questions relating to these individuals to the Office of the Chief of Protocol at [DiplomaticAffairs@state.gov](mailto:DiplomaticAffairs@state.gov).
- This handbook does not address rules relating to the pre-notification and employment of domestic workers by foreign mission members. Please direct related questions to the Office of the Chief of Protocol at [DomesticWorkers@state.gov](mailto:DomesticWorkers@state.gov).
- This handbook does not address rules specific to the establishment of diplomatic or consular posts or other foreign mission properties. Please direct related questions to the Office of Foreign Missions (OFM) at [OFMProperty@state.gov](mailto:OFMProperty@state.gov).
- This handbook does not address visa classification, qualification, and domestic visa issuance, including facilitation with changes or extensions of nonimmigrant visa status. Please direct related questions to the Office of Visa Services in the Bureau of Consular Affairs at [DiplomaticVisas@state.gov](mailto:DiplomaticVisas@state.gov).
- This handbook does not address rules specific to notifying NATO visa holders to the Department for the purpose of obtaining dependent employment authorization documents (EADs). Please direct related questions to [OFM-EAD@state.gov](mailto:OFM-EAD@state.gov).
- This handbook does not address step-by-step procedures in using the Department's eGovernment system (eGov) for transactions. Please direct procedural questions to [OFM-FMMA@state.gov](mailto:OFM-FMMA@state.gov). Please direct technical questions to [OFMeGovHelpDesk@state.gov](mailto:OFMeGovHelpDesk@state.gov). The eGov website may be accessed through this link: <https://egov.ofm.state.gov/Home/Login?ReturnUrl=%2f>.

## 2 VISA REQUIREMENTS

### 2.1 Visa Eligibility

Visit the Consular Affairs' website for specific information about obtaining or renewing an A or G visa, as well as the website for the U.S. embassy or consular post at which the individual will be applying for a visa: <https://travel.state.gov/content/travel/en/us-visas/other-visa-categories.html>.

### 2.2 Visa Requirement for Employment with a Foreign Mission

Other than U.S. citizens and LPRs, the Department generally only accepts the accreditation of individuals who hold the following visas as members of the staff of a foreign mission:

- A-1, A-2: Foreign government officials and employees at an embassy or consular post
- A-2: Staff at miscellaneous foreign government offices (MFGOs)
- G-1: Foreign government officials and employees (regardless of rank) at a member state's mission to a designated international organization (IO)
- G-3: Generally includes foreign government officials and employees (regardless of rank) at a state's mission to a designated IO where the government is not a member of the IO
- G-4: Officers and employees of a designated IO assigned to that IO

All members of the family forming part of the household of the principal official or employee, unless they are U.S. citizens or LPRs, must generally hold a visa that matches the visa classification of the principal official or employee whom they are accompanying or following to join. Certain exceptions may exist for dependents working for a foreign mission. Foreign missions may email these exceptional case to [OFM-FMMA@state.gov](mailto:OFM-FMMA@state.gov) for further guidance.

Visas for personnel traveling to the United States as newly hired or arrived foreign mission personnel must be obtained prior to entry into the United States and prior to the newly hired or arrived principal's performance of services. Notifications of appointment (NOAs) will not be accepted, Department documents (e.g., identification (ID) card, tax exemption card, driver's license, etc.) will not be issued, nor privileges and immunities afforded for any newly hired or arrived principal not present in the United States in A or G nonimmigrant visa status. It should be noted, in some circumstances, a principal or dependent may be eligible for an A or G visa and not enjoy privileges and immunities.

U.S. citizens and LPRs may be employed in any position except as a diplomatic agent or career consular officer. They do not require a visa for this employment and are otherwise not entitled to A or G nonimmigrant visa status. However, foreign missions are required to notify the Department of the employment and termination of these types of employees.

## **2.3 Diplomatic Note Requirement for A or G Visa Requests**

### **2.3.1 Foreign Government Employees (A-1, A-2, G-1, G-2, G-3)**

In accordance with circular note No. 16-855, regarding visa issuance and dated June 3, 2016, available at <http://www.state.gov/documents/organization/227759.pdf>, when an individual applies for a new A-1, A-2, G-1, G-2, or G-3 visa outside the United States, or requests a change into A-1, A-2, G-1, G-2, or G-3 nonimmigrant visa status within the United States, the sending government must provide a diplomatic note that contains the following information:

- the government official's or employee's name, date of birth, position and title, place of assignment or visit, purpose of travel, a brief description of his or her duties, travel date, and the anticipated length of the tour of duty or stay in the United States; and
- the names, relationships, and dates of birth of any immediate family members forming part of the household of the government official or employee and who will be accompanying or joining the government official or employee.

For foreign government officials and employees, who are assigned to a foreign mission in the United States for 90 days or more, the "place of assignment or visit" must be the appropriate foreign mission where the individual will be serving. The diplomatic note submitted on behalf of such accredited officials or employees generally must originate from the sending government's Ministry of Foreign Affairs, and not from an embassy, consular post, or MFGO located in the United States. An exception to this is for accredited officials or employees routinely renewing their A-1, A-2, G-1 or G-3 visas domestically by submitting an embassy, consular post, or MFGO note, or an officially stamped application confirmation, to the Visa Office's Diplomatic Liaison Division.

In the case of a career official or employee currently assigned outside of the United States and outside of the sending state, the Department may accept a note from the embassy or consular post at which the individual is currently assigned, provided the note certifies that the sending government's Ministry of Foreign Affairs supports the visa application.

Consistent with immigration laws and regulations, the Department may require additional documentation to establish whether a particular applicant qualifies for an A-1, A-2, G-1, G-2, or G-3 visa.

### **2.3.2 IO Employees (G-4)**

In accordance with circular note No. 16-886, dated June 7, 2016, available at <http://www.state.gov/documents/organization/227761.pdf>, when an individual applies for a new G-4 visa outside the United States, or requests a change into G-4 nonimmigrant visa status within the United States, the IO must provide a note that contains the following information:



- the IO officer's or employee's name, date of birth, position and title, place of assignment or visit, purpose of travel, a brief description of his or her duties, travel date, and the anticipated length of duty or stay in the United States, and
- the names, relationships, and dates of birth of any immediate family members forming part of the household of the officer or employee and who will be accompanying or joining the officer or employee.

Consistent with immigration laws and regulations, the Department may require additional documentation to establish whether a particular applicant qualifies for a G-4 visa. For employees routinely renewing their G-4 visas domestically, the IO may submit a note or officially stamped application confirmation to the Visa Office's Diplomatic Liaison Division.

## **2.4 Individuals in Possession of an A or G Visa Seeking a Change of Nonimmigrant Visa Status**

### **2.4.1 Present in the United States in A or G Nonimmigrant Visa Status**

For the most up-to-date information regarding changing nonimmigrant visa status within the United States please visit <https://travel.state.gov/content/travel/en/us-visas/other-visa-categories/visa-employees-nato/change-status.html>.

If an individual is in the United States in A or G nonimmigrant visa status and is being assigned to another foreign mission, he/she may need to seek a change of nonimmigrant visa status. To apply for a change of nonimmigrant visa status within the United States between A or G nonimmigrant visa status, foreign missions must submit an NOA for an individual's new assignment. Once submitted, OFM will invite the foreign mission to submit the appropriate documentation to request a change of nonimmigrant visa status. To seek a change of accreditation status in the United States, the foreign mission must provide a diplomatic note as explained in the section "Diplomatic Note Requirement for A or G Visa Requests" with the NOA. The newly assigned individual may not be issued Department documents, until the change of nonimmigrant visa status is complete.

The Visa Office's Diplomatic Liaison Division may be able to facilitate change of nonimmigrant visa status in the United States in some instances. However, it may be more efficient for an individual to leave the United States to obtain the correct visa and return to the United States under their new visa status rather than request the change of nonimmigrant visa status in the United States.

If an individual holds an unexpired A or G visa from a prior assignment that is also the proper visa classification for his/her new assignment, and he/she is working for the **same** foreign government or designated IO for which the previous A or G visa was issued, then once accredited, he/she may be required to request a new visa through the Visa Office's Diplomatic Liaison Division to clearly associate his/her visa with the new assignment. Similarly, if a member of the family forming part of the household holds an unexpired A or G visa that is the

proper visa classification for his/her new assignment as a principal, then once accredited, he/she may request a new visa to clearly associate his/her visa with the new assignment as principal.

The Department reserves the right to determine on a case-by-case basis whether the individual must apply for the proper nonimmigrant visa at a U.S. embassy or consular post outside the United States.

#### **2.4.2 Not Present in the United States in A or G Nonimmigrant Visa Status, But Holds Valid A or G Visa**

If an individual holds an unexpired A or G visa from a prior assignment or official trip to the United States that is also the proper visa classification for his/her new assignment, he/she is recommended to request a new visa outside the United States to clearly associate his/her visas with the new assignment. A or G visas (other than G-4 visas) previously issued for temporary travel may not be the proper visa classification for the new assignment, depending on the position the individual holds and the duties he/she will perform. If the unexpired A or G visa is not the proper visa classification for his/her new assignment, he/she must obtain the proper visa before traveling to the United States.

#### **2.5 Individuals in Possession of a U.S. Nonimmigrant Visa Other Than an A or G Visa**

If an individual holds an unexpired nonimmigrant visa (other than an A or G visa), he/she should not use this visa to travel to the United States for the purpose of engaging in official business on behalf of a foreign mission, taking up employment at a foreign mission, or accompanying the principal as a member of the family forming part of the household of the principal. Such individuals must apply for and obtain the appropriate A or G visa at a U.S. embassy or consular post overseas before traveling to the United States.

If the individual is already in the United States, he/she must depart the United States and request the proper A or G visa at a U.S. embassy or consular post outside the United States or in limited circumstances, as determined by OFM in consultation with the Office of Visa Services, may seek a change of nonimmigrant visa status to A or G nonimmigrant visa status in the United States.

The proper visa or approved change of nonimmigrant visa status must be obtained prior to the performance of services. NOAs will not be accepted, Department documents (e.g., ID card, tax exemption card, driver's license, etc.) will be not issued, nor privileges and immunities afforded for any principal holding a nonimmigrant visa status other than A or G.

### **3 NOTIFICATION OF APPOINTMENT (NOA)**

As stated above, foreign missions are required to notify the Department promptly (within 30 days) of the appointment of all foreign mission personnel, including all LE staff and part-time

employees, and any dependents. Personnel who are traveling on behalf of a foreign mission on official business of a temporary nature (less than 90 days) are not required to be notified.

Foreign missions must submit the NOA via eGov. The name reflected on the NOA must be the full legal name as it appears on a U.S. Government issued visa. Separate NOAs must be submitted for each principal of a tandem couple (i.e., both spouses). The following information is also requested on the NOA: residential address, arrival date, duty assume date, expected date of departure, predecessor information, family members, other U.S. assignments, and activities in the past five years.

### **3.1 Embassy**

Unless otherwise explicitly approved by OFM, diplomatic agents, administrative and technical (A&T) staff members, and service staff members, not including U.S. citizens and LPRs, at an embassy are expected to reside within the boundary of the Washington, DC metropolitan area, which for this purpose includes the following locations.

- District of Columbia
- Calvert County, Maryland
- Montgomery County, Maryland
- Prince George's County, Maryland
- Alexandria, Virginia
- Arlington, Virginia
- Fairfax County, Virginia
- Fairfax, Virginia
- Loudoun County, Virginia
- Manassas, Virginia
- Manassas Park, Virginia
- Loudoun County, Virginia
- Manassas, Virginia

#### **3.1.1 Diplomatic Agents (Embassy)**

Newly arrived foreign mission members seeking acceptance of accreditation as a diplomatic agent at an embassy, and those seeking to retain such status, must:

- be a national of the sending state and not a U.S. citizen or LPR;
- possess a valid diplomatic passport issued by the sending state;
- possess a recognized diplomatic title (Minister, Minister Counselor, Counselor, First Secretary, Second Secretary, Third Secretary, Attaché, Military Attaché);
- hold an A-1 nonimmigrant visa;
- be at least 20 years of age;
- reside on a full-time basis in the Washington, DC metropolitan area;
- perform diplomatic functions on an essentially full-time basis (at least 35 hours per week);
- not engage in any professional or commercial activity in the United States (engaging in any professional or commercial activity, including gainful employment on the U.S. economy, is inconsistent with the VCDR and U.S. immigration laws.);
- not be subject to pending criminal charges punishable by imprisonment (or have members of the family forming part of principal's household subject to such charges);

- not be convicted of charges punishable by imprisonment (or have members of the family forming part of principal's household subject to such charges); and
- other requirements, on the basis of reciprocity or as determined by OFM.

Diplomatic agents at the embassy who perform consular functions must have a diplomatic title as stated above.

Although VCDR Article 5(3) states that a head of mission or any member of the diplomatic staff of the mission also may act as representatives to IOs, the VCDR provides no basis for such persons to serve on the staffs of IOs themselves (as opposed to the staff of a mission to the IO). The Department views service on the staff of an IO as incompatible with the functions of a diplomat, whose principal concern must be to assist in the conduct of bilateral relations between the sending state and the United States as provided in VCDR Article 3.

The job titles available in eGov for individuals seeking acceptance of accreditation as a diplomatic agent are:

- Minister
- Minister Counselor
- Counselor
- First Secretary
- Second Secretary
- Third Secretary
- Attaché
- Military Attaché

Foreign missions are requested to also provide the Department with the functional titles of its members. In eGov, foreign missions are free to provide the most descriptive job title that applies to the duties performed (this is a free text field and does not require a selection from a pre-established list).

The Department reiterates the emphasis placed on the performance of traditional and accepted diplomatic functions by accredited foreign mission personnel assigned to work in the United States. Accordingly, the Department generally does not accept for accreditation any person assigned in the United States, who is also a student or trainee at any college, university, vocational school, military institution, or private or governmental foundation, or who is engaged in any pursuit inconsistent with regular and accepted diplomatic functions. For embassy personnel holding A visas, engaging in any professional or commercial activity, including gainful employment on the U.S. economy, is inconsistent with the VCDR, U.S. immigration laws, and Department policy.

### ***3.1.1.1 Card Issuance***

Diplomatic ID cards are issued to diplomatic agents and are automatically processed upon acceptance of accreditation.

Please refer to circular note No. 15-1169, available at <http://www.state.gov/documents/organization/250633.pdf>, for information about replacing a lost or stolen ID card.

### **3.1.2 Administrative & Technical Staff (Embassy)**

A&T staff are employed only at embassies.

Newly arrived personnel seeking recognition as career A&T staff at an embassy, and those seeking to retain such status, must:

- possess a valid diplomatic or official passport issued by the sending state;
- hold an A-2 non-immigrant visa;
- be at least 20 years of age;
- reside on a full time basis in the Washington, DC metropolitan area;
- perform official functions on an essentially full-time basis (at least 35 hours per week);
- not engage in any professional or commercial activity in the United States (engaging in any professional or commercial activity, including gainful employment on the U.S. economy, is inconsistent with the VCDR and U.S. immigration laws);
- not be subject to pending criminal charges punishable by imprisonment (or have members of the family forming part of principal's household subject to such charges);
- not be convicted of charges punishable by imprisonment (or have members of the family forming part of principal's household subject to such charges); and
- other requirements, on the basis of reciprocity or as determined by OFM.

The only job title available in eGov for individuals seeking accreditation under this category is A&T staff.

Foreign missions are requested to also provide the Department with the functional titles of its members. In eGov, foreign missions are free to provide the most descriptive job title that applies to the duties performed (this is a free text field and does not require a selection from a pre-established list). The descriptive job title will generally match the diplomatic note description of duties submitted in the visa application.

The Department currently determines members of an embassy's A&T staff to be permanently resident in the United States for the purposes of the Vienna Conventions unless the employing foreign state confirms the following:

- the sending state paid the cost of the employee's transportation to the United States from the employee's prior residence;
- the sending state undertakes to transfer the employee and his or her members of the family forming part of the household out of the United States consistent with the sending State's transfer policy;

- the sending state undertakes to pay the cost of the employee's transportation from the United States to the employee's normal place of residence or to the country of the employee's next assignment at the end of the employee's tour of duty in the United States; and
- the individual receives an allowance for housing cost similar to what is afforded to a diplomatic agent.

Effective January 1, 2019, as part of the NOA, **the embassy is required to submit a letter signed by the deputy chief of mission or higher, confirming all requirements as listed above are met.**

In addition to the letter, the embassy must also provide documentation that conclusively demonstrates the sending state paid the cost of the employee's transportation to the United States, as well as that of any accompanying members of the family forming part of the household, from the employee's prior residence.

If the embassy is unable to meet the above requirements and provide the aforementioned documentation, the A&T staff member must be notified as permanently resident in for purposes of the Vienna Conventions (as seen in the Section titled "Locally Engaged Staff – Permanently Resident in the United States for Purposes of the Vienna Conventions (Embassy)").

The Department reserves the right to request additional documentation concerning this matter.

The Department reiterates the emphasis placed on the performance of traditional and accepted functions by foreign mission personnel assigned to the United States. Accordingly, the Department generally does not accept for accreditation any person assigned to work in the United States, who is also a student or trainee at any college, university, vocational school, military institution, or private or governmental foundation, or who is engaged in any pursuit inconsistent with regular and accepted diplomatic functions. For embassy personnel holding A visas, engaging in any professional or commercial activity, including gainful employment on the U.S. economy, is inconsistent with the VCDR, U.S. immigration laws, and Department policy.

### ***3.1.2.1 Card Issuance***

Official ID cards are issued to career A&T staff and are automatically processed upon accreditation.

Please refer to circular note No. 15-1169, available at <http://www.state.gov/documents/organization/250633.pdf>, for information about replacing a lost or stolen ID card.

### **3.1.3 Service Staff (Embassy)**

Service staff employees may be employed at an embassy.

Newly arrived personnel seeking recognition as career service staff at an embassy, and those seeking to retain such status, must:

- possess a valid diplomatic, official, or service passport issued by the sending state;
- hold an A-2 non-immigrant visa;
- be at least 20 years of age;
- reside on a full time basis in the Washington, DC metropolitan area;
- perform official functions on an essentially full-time basis (at least 35 hours per week);
- not engage in any professional or commercial activity in the United States (engaging in any professional or commercial activity, including gainful employment on the U.S. economy, is inconsistent with the VCDR and U.S. immigration laws);
- not be subject to pending criminal charges punishable by imprisonment (or have members of the family forming part of principal's household subject to such charges);
- not be convicted of charges punishable by imprisonment (or have members of the family forming part of principal's household subject to such charges); and
- other requirements, on the basis of reciprocity or as determined by OFM.

The only job title available in eGov for individuals seeking accreditation under this category is service staff.

Foreign missions are requested to also provide the Department with the functional titles of its members. In eGov, foreign missions are free to provide the most descriptive job title that applies to the duties performed (this is a free text field and does not require a selection from a pre-established list). Examples of positions held by service staff are drivers, chauffeurs, gardeners, caretakers, maintenance personnel, couriers, or messengers.

Personnel who are employed by the foreign mission, rather than by individual members of the foreign mission, and who are engaging in certain duties on mission premises or in furtherance of the official functions of the mission pertaining to the maintenance of the residence and representational duties performed at the residence of the head of a diplomatic mission, may also be members of the career service staff of the mission.

Individuals employed by a foreign mission member in a domestic or personal capacity, such as to cook, clean, or take care of children in the private residence of a foreign mission member should not be members of the service staff of the foreign mission.

The Department currently determines members of an embassy's service staff to be permanently resident in the United States for the purposes of the Vienna Conventions unless the employing foreign state confirms the following:

- the sending state paid the cost of the employee's transportation to the United States from the employee's prior residence;
- the sending state undertakes to transfer the employee and his or her members of the family forming part of the household out of the United States consistent with the sending State's transfer policy;

- the sending state undertakes to pay the cost of the employee's transportation from the United States to the employee's normal place of residence or to the country of the employee's next assignment at the end of the employee's tour of duty in the United States; and
- the individual receives an allowance for housing cost similar to what is afforded to a diplomatic agent.

Effective January 1, 2019, as part of the NOA, **the embassy is required to submit a letter signed by the deputy chief of mission or higher, confirming all requirements as listed above are met.**

In addition to the letter, the embassy must also provide documentation that conclusively demonstrates the sending state paid the cost of the employee's transportation to the United States, as well as that of any accompanying members of the family forming part of the household, from the employee's prior residence.

If the embassy is unable to meet the above requirements and provide the aforementioned documentation, the service staff member must be notified as permanently resident in for purposes of the Vienna Conventions (as seen in the Section titled "Locally Engaged Staff – Permanently Resident In the United States for Purposes of the Vienna Conventions (Embassy)").

The Department reserves the right to request additional documentation concerning this matter.

The Department reiterates the emphasis placed on the performance of traditional and accepted diplomatic functions by accredited foreign mission personnel assigned to the United States. Accordingly, the Department generally does not accept for accreditation any person assigned to work in the United States, who is also a student or trainee at any college, university, vocational school, military institution, or private or governmental foundation, or who is engaged in any pursuit inconsistent with regular and accepted diplomatic functions. For embassy personnel holding A visas, engaging in any professional or commercial activity, including gainful employment on the U.S. economy, is inconsistent with the VCDR, U.S. immigration laws, and Department policy.

### **3.1.3.1 Card Issuance**

Official ID cards are issued to career service staff and are automatically processed upon accreditation.

Please refer to circular note No. 15-1169, available at <http://www.state.gov/documents/organization/250633.pdf>, for information about replacing a lost or stolen ID card.

### **3.1.4 Military Personnel (Embassy)**

Foreign military personnel assigned to the embassy must be notified to the Department as **diplomatic agents** (and therefore the individual must meet the criteria for diplomatic agents



listed above) and must select “Military Attaché” as the job title. They must also obtain clearance from the Department of Defense (DOD) in order to hold that title. The embassy may fill in a more detailed title description (i.e., Defense, Military, Naval, and Air Attaché) under the “functional title” field.

The embassy must concurrently provide notification information directly to DOD and the NOA to OFM. If the embassy has questions about what to provide DOD, contact DOD directly using the information below (accurate as of August 2018):

- Defense Intelligence Agency
  - Ms. Bonnie Dzingle; Bonnie.Dzingle@dodiis.mil, (703) 614-4190
- Army
  - Ms. Jackie Green; jacqueline.m.green.civ@mail.mil, (703) 692-1469
  - Ms. Sofia Stasishyn; sofia.stasishyn.civ@mail.mil, (703) 692-1465
- Navy
  - Ms. Deborah Riley; deborah.m.riley@navy.mil, (703) 695-0050
- Air Force
  - Mr. Jeffery Fearon; jeffrey.r.fearon.civ@mail.mil, (703) 693-7778
  - Ms. Michelle Carter; michelle.d.carter46.mil@mail.mil, (703) 695-2251

Before the Department accepts the accreditation of and grant privileges and immunities to foreign military personnel, OFM must have received a notification of termination (NOT) for his/her predecessor, as well as, approval from DOD.

Foreign military personnel without diplomatic titles, who are assigned at the embassy to perform functions directly related to and in support of the foreign mission, must be notified to the Department as members of the A&T staff.

Although foreign military personnel assigned to the United States and working at locations other than an embassy may report to or come under the umbrella of the sending state’s military attaché’s office, they should not be notified as members of the embassy staff.

The following foreign military personnel assigned to the United States generally should not be notified to OFM: those in training, attending military schools or colleges, or where coursework is the primary focus of their mission, those assigned to any type of foreign military sales effort or joint military program, such as the Joint Strike Fighter program, those assigned to a multinational NATO defense unit (unless an eligible dependent is seeking an EAD), or those serving in a liaison capacity with the U.S. armed forces or a manufacturer of military material. In these cases, the primary focus of the assignment is considered separate and distinct from the full-time duties performed by members of the diplomatic missions and are not functions in support of the diplomatic mission.

### **3.1.5 Locally Engaged Staff – U.S. Citizens and LPRs (Embassy)**

Embassies must notify the Department of all LE staff hired by the foreign mission in the United States and not appointed by the Ministry of Foreign Affairs as a career official or employee.

LE staff are generally U.S. citizens or LPRs.

The notification of U.S. citizens and LPRs is important to avoid running afoul of the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. §§ 611-21. Section 3 of that Act (22 U.S.C. § 613) requires the recognition of every employee's official status and knowledge of his/her activities by the Secretary of State in order to establish exemption from the requirement of registration as a foreign agent with the Department of Justice.

### **3.1.6 Locally Engaged Staff – Permanently Resident in the United States for Purposes of the Vienna Conventions (Embassy)**

If the embassy wishes to hire an individual who is not a U.S. citizen or LPR, such individual may be eligible to be considered as permanently resident in the United States for purposes of the Vienna Conventions. These individuals are generally required to obtain an A-2 visa and be admitted to the United States in A-2 nonimmigrant visa status. Such individuals are expected to hold this status for no more than a total of five years with any mission.

Newly arrived personnel seeking acceptance of accreditation in this category at an embassy, and those seeking to retain such status, must:

- hold an A-2 non-immigrant visa;
- be at least 20 years of age;
- reside on a full time basis in the Washington, DC metropolitan area;
- perform official functions on an essentially full-time basis (at least 35 hours per week);
- not engage in any professional or commercial activity in the United States (engaging in any professional or commercial activity, including gainful employment on the U.S. economy, is inconsistent with the VCDR and U.S. immigration laws);
- not be subject to pending criminal charges punishable by imprisonment (or have members of the family forming part of principal's household subject to such charges);
- not be convicted of charges punishable by imprisonment (or have members of the family forming part of principal's household subject to such charges); and
- other requirements, on the basis of reciprocity or as determined by OFM.

LE staff holding A-2 visas notified to the Department prior to August 23, 2016, will be permitted to remain accredited and considered to be entitled to such status until August 22, 2021.

The Department reiterates the emphasis placed on the performance of traditional and accepted diplomatic functions by accredited foreign mission personnel assigned to the United States. Accordingly, the Department generally does not accept for accreditation any person assigned to work in the United States, who is also a student or trainee at any college, university, vocational

school, military institution, or private or governmental foundation, or who is engaged in any pursuit inconsistent with regular and accepted diplomatic functions. For embassy personnel holding A visas, engaging in any professional or commercial activity, including gainful employment on the U.S. economy, is inconsistent with the VCDR, U.S. immigration laws, and Department policy.

### **3.1.7 Employees Working Outside the Diplomatic Mission Premises (Embassy)**

Employees performing diplomatic functions and physically working outside of the diplomatic mission premises, but in the same metropolitan areas as that of the diplomatic mission (for example, at U.S. Government offices) are generally treated as members of the diplomatic mission and therefore should be notified to the Department. To ensure such matters are properly handled, foreign missions are strongly encouraged to discuss such situations directly with OFM prior to submitting NOAs for these employees. Such discussions may be initiated by sending a message to [OFM-FMMA@state.gov](mailto:OFM-FMMA@state.gov).

### **3.1.8 Dependents (Embassy)**

#### ***3.1.8.1 Members of the Family Forming Part of the Household***

- Spouse;
- unmarried children under 21 years of age;
- unmarried children under 23 years of age, who are attending an institution of higher learning on a full-time basis in the United States; and
- unmarried children 21 years of age or older who have a mental or physical disability and are recognized as dependents of the principal by the sending government, as demonstrated by eligibility for rights and benefits, such as the issuance of a diplomatic or official passport, or travel or other allowance.

Each member of the family forming part of the household must not be a member of some other household, must reside exclusively in the household of the principal, and must be recognized by the sending State as a member of the family forming part of the household of the principal, as demonstrated by eligibility for rights and benefits from the sending State. Other applicable conditions and requirements for each are described below. If the Department is not notified of a member of the family forming part of the household, then such individual is presumed to not be a member of the family forming part of the household for purposes of the VCDR.

More restrictive or generous policies may apply bilaterally on the basis of reciprocity.

#### ***3.1.8.2 Members of Household***

The definition of “immediate family” members for purposes of the issuance of an A or G visa on a derivative basis (22 CFR 41.21; 9 FAM 402.3-4(J)) is not the same as the definition of “members of the family” for purposes of the VCDR and VCCR or “members of household” for notification purposes.

Those individuals issued an A or G visa as “immediate family”, who are not spouses or children as described above are considered to be members of household and do not enjoy any privileges or immunities. These generally include parents, parents-in-law, and overage children. Individuals who reside in a principals household and are a U.S citizen, LPR, or are issued a visa other than an A or G visa are also considered to be members of household and do not enjoy any privileges or immunities.

These individuals must be notified to the Department via the NOA (if arriving with the principal) or notification of change (if arriving later than the principal).

### ***3.1.8.3 Card Issuance***

ID cards are issued to members of the family forming part of the household who may enjoy some degree of immunity and are automatically processed upon accreditation. Children under the age of 16 are ineligible for an ID card. Upon a child’s 16th birthday, the foreign mission may send an email to [OFM-FMMA@state.gov](mailto:OFM-FMMA@state.gov), requesting the issuance of an ID card.

Please refer to circular note No. 15-1169, available at <http://www.state.gov/documents/organization/250633.pdf>, for information about replacing a lost or stolen ID card.

### ***3.1.8.4 Dependent Work Authorization Program***

The United States has bilateral work agreements with well over 100 countries and de facto arrangements with several others. On the basis of these agreements and arrangements, certain dependents of certain foreign mission members may be authorized to work in the United States.

Members of the family forming part of the household are considered members of the foreign mission. Therefore members of the family forming part of the household, holding a derivative A or G visa and who work in a locally hired capacity at the principal’s mission of assignment are not required to obtain an EAD from the Department of Homeland Security’s U.S. Citizenship and Immigration Services (USCIS) for that position.

Married couples where both individuals are career officials or employees and are assigned career positions should be notified to the Department with the assignments of both principal employees. Neither are required to obtain an EAD.

Members of the family forming part of the household seeking employment may contact [OFM-EAD@state.gov](mailto:OFM-EAD@state.gov) for guidance.

The dependents of LE staff as defined in the section titled “Locally Engaged Staff – Permanently Resident In the United States for Purposes of the Vienna Conventions (Embassy)” do not enjoy any privileges or immunities and are not eligible to apply for an EAD.

### 3.2 Consular Post

Unless otherwise explicitly approved by OFM, consular officers and consular employees, not including U.S. citizens and LPRs, are generally required to reside within the boundaries of the metropolitan area in which the foreign mission to which they are assigned is located.

For this purpose, below are the general metropolitan areas for Atlanta, Georgia; Boston, Massachusetts; Chicago, Illinois; Houston, Texas; Los Angeles, California; Miami, Florida; New Orleans, Louisiana; New York, New York; San Francisco, California; and Seattle, Washington.

**For residences outside of the mentioned counties below, they may not be more than 50 miles from the respective city's city hall.**

Atlanta, Georgia:

- Fulton County, Georgia
- Gwinnett County, Georgia
- Cobb County, Georgia
- DeKalb County, Georgia
- Clayton County, Georgia
- Cherokee County, Georgia
- Forsyth County, Georgia
- Henry County, Georgia
- Hall County, Georgia
- Paulding County, Georgia

Boston, Massachusetts:

- Bristol County, Massachusetts
- Essex County, Massachusetts
- Middlesex County, Massachusetts
- Norfolk County, Massachusetts
- Plymouth County, Massachusetts
- Suffolk County, Massachusetts
- Worcester County, Massachusetts

Chicago, Illinois:

- Cook County, Illinois
- DuPage County, Illinois
- Grundy County, Illinois
- Kane County, Illinois
- Lake County, Illinois
- Lake County, Indiana

Houston, Texas:

- Harris County, Texas

Los Angeles, California:

- Los Angeles County, California
- Orange County, California

Miami, Florida:

- Broward County, Florida
- Miami-Dade County, Florida
- Palm Beach County, Florida

New Orleans, Louisiana:

- Jefferson Parrish, Louisiana
- Orleans Parrish, Louisiana
- Lafourche Parrish, Louisiana
- St. Bernard Parrish, Louisiana
- St. Charles Parrish, Louisiana
- St. John the Baptist Parrish, Louisiana
- St. Tammany Parrish, Louisiana
- Tangipahoa Parrish, Louisiana
- Terrebonne Parrish, Louisiana

New York City, New York:

- New York, New York
- Bronx County, New York
- Kings County, New York
- Queens County, New York
- Westchester, New York
- Nassau, New York
- Putnam County, New York
- Richmond County, New York
- Rockland County, New York
- Suffolk County, New York
- Westchester County, New York
- Bergen County, New Jersey
- Hunterdon County, New Jersey
- Middlesex County, New Jersey
- Monmouth County, New Jersey
- Morris County, New Jersey
- Passaic County, New Jersey
- Sussex County, New Jersey
- Union County, New Jersey
- Fairfield, Connecticut

San Francisco, California:

- Alameda County, California
- Contra Costa County, California
- Marin County, California
- San Francisco County, California
- San Mateo County, California
- Palo Alto, California

Seattle, Washington:

- Island County, Washington
- Jefferson County, Washington
- King County, Washington
- Kitsap County, Washington
- Mason County, Washington
- Pierce County, Washington
- Snohomish County, Washington
- Thurston County, Washington

For cities not explicitly stated above, but where a consular post is present, foreign mission members are generally required to reside within a 50 mile radius of the city where the respective city's city hall is located.

### 3.2.1 Career Consular Officers

Career consular officers are considered as only those employed at consular posts. Consular posts are located **outside of Washington, DC.** The foreign mission's NOA submission via eGov is considered formal notification of the appointment of career consular officers and does not require the exchange of diplomatic notes.

Pre-approval or agrément is not required for the head of the consular post, and a formal exequatur will not be issued. Before the NOA for the head of a consular post is accepted, OFM must receive an NOT for his/her predecessor.

Career consular officers may not exercise their consular functions until the sending state has formally requested and received approval to establish the consular post to which the officer is assigned. Consular activities may not be performed before the Department has accepted the accreditation of a career consular officer.

Newly arrived personnel seeking recognition as a career consular officer at a consular post, and those seeking to retain such status, must:

- be a national of the sending State and not a U.S. citizen or LPR;
- possess a valid diplomatic or official passport issued by the sending State;
- possess a consular title (Consul General, Deputy Consul General, Consul, Deputy Consul, or Vice Consul);
- hold an A-1 nonimmigrant visa;
- be at least 20 years of age;
- reside full-time in the metropolitan area of the consular post and where recognition is requested;
- devote official activities to consular duties on an essentially full-time basis (at least 35 hours per week);
- not engage in any professional or commercial activity in the United States (engaging in any professional or commercial activity, including gainful employment on the U.S. economy, is inconsistent with the VCCR and U.S. immigration laws.);
- not be subject to pending criminal charges punishable by imprisonment (or have members of the family forming part of principal's household subject to such charges);
- not be convicted of charges punishable by imprisonment (or have members of the family forming part of principal's household subject to such charges); and
- other requirements, on the basis of reciprocity or as determined by OFM.

The only job titles available in eGov for a career consular officer are:

- Consul General
- Deputy Consul General
- Consul
- Deputy Consul
- Vice Consul

Foreign missions are requested to also provide the Department with the functional titles of its members. In eGov, foreign missions are free to provide the most descriptive job title that applies to the duties performed (this is a free text field and does not require a selection from a pre-established list).

The Department reiterates the emphasis placed on the performance of traditional and accepted consular functions by accredited foreign mission personnel assigned to the United States. Accordingly, the Department generally does not accept for accreditation any person assigned to work in the United States, who is also a student or trainee at any college, university, vocational school, military institution, or private or governmental foundation, or who is engaged in any pursuit inconsistent with regular and accepted diplomatic functions. For consular personnel holding A visas, engaging in any professional or commercial activity, including gainful employment on the U.S. economy, is inconsistent with the VCCR, U.S. immigration laws, and Department policy.

### **3.2.1.1 Card Issuance**

Consular ID cards are issued to career consular officers and are automatically processed upon accreditation.

Please refer to circular note No. 15-1169, available at <http://www.state.gov/documents/organization/250633.pdf>, for information about replacing a lost or stolen ID card.

### **3.2.2 Consular Employees**

Career consular employees are considered as only those employed at consular posts; consular posts are located **outside of Washington, DC**. Career consular employees must hold an A-2 visa unless they are U.S. citizens or LPRs. Such individuals on an A-2 visa must perform duties with the assigned consular post on a full-time basis (at least 35 hours per week).

Newly arrived personnel seeking recognition as a career consular employee at a consular post, and those seeking to retain such status, must:

- possess a valid diplomatic or official passport issued by the sending State;
- hold an A-2 non-immigrant visa;
- be at least 20 years of age;
- reside full-time in the metropolitan area of the consular post where recognition is requested;
- perform official duties on an essentially full-time basis (at least 35 hours per week);
- not engage in any professional or commercial activity in the United States (engaging in any professional or commercial activity, including gainful employment on the U.S. economy, is inconsistent with the VCCR and U.S. immigration laws.);
- not be subject to pending criminal charges punishable by imprisonment (or have members of the family forming part of principal's household subject to such charges);
- not be convicted of charges punishable by imprisonment (or have members of the family forming part of principal's household subject to such charges); and
- other requirements, on the basis of reciprocity or as determined by OFM.



The only job title available in eGov for individuals seeking accreditation under this category is consular employee.

Foreign missions are requested to also provide the Department with the functional titles of its members. In eGov, foreign missions are free to provide the most descriptive job title that applies to the duties performed (this is a free text field and does not require a selection from a pre-established list).

The Department currently determines consular employees to be permanently resident in the United States for the purposes of the Vienna Conventions unless the employing foreign state confirms the following:

- the sending state paid the cost of the employee's transportation to the United States from the employee's prior residence;
- the sending state undertakes to transfer the employee and his or her members of the family forming part of the household out of the United States consistent with the sending State's transfer policy;
- the sending state undertakes to pay the cost of the employee's transportation from the United States to the employee's normal place of residence or to the country of the employee's next assignment at the end of the employee's tour of duty in the United States; and
- the individual receives an allowance for housing cost similar to what is afforded to a career consular officer.

Effective January 1, 2019, as part of the NOA, **the consular post is required to submit a letter signed by the head of the consular post or higher, confirming all requirements as listed above are met.**

In addition to the letter, the consular post must also provide documentation that conclusively demonstrates the sending state paid the cost of the employee's transportation to the United States, as well as that of any accompanying members of the family forming part of the household, from the employee's prior residence.

If the consular post is unable to meet the above requirements and provide the aforementioned documentation, the consular employee will be notified as permanently resident in for purposes of the Vienna Conventions (as seen in the section titled "Locally Engaged Staff – Permanently Resident in the United States for Purposes of the Vienna Conventions (Consular Post)").

OFM reserves the right to request additional documentation concerning this matter.

The Department reiterates the emphasis placed on the performance of traditional and accepted consular functions by accredited foreign mission personnel assigned to the United States. Accordingly, the Department generally does not accept for accreditation any person assigned to work in the United States, who is also a student or trainee at any college, university, vocational school, military institution, or private or governmental foundation, or who is engaged in any pursuit inconsistent with regular and accepted consular functions. For consular personnel

holding A visas, engaging in any professional or commercial activity, including gainful employment on the U.S. economy, is inconsistent with the VCCR, U.S. immigration laws, and Department policy.

### **3.2.2.1 Card Issuance**

Consular ID cards are issued to career consular employees and are automatically processed upon accreditation.

Please refer to circular note No. 15-1169, available at <http://www.state.gov/documents/organization/250633.pdf>, for information about replacing a lost or stolen ID card.

### **3.2.3 Service Staff (Consular Post)**

Career service staff may be employed at a consular post. Newly arrived personnel seeking recognition in this category at a consular post, and those seeking to retain such status, must:

- possess a valid diplomatic, official, or service passport issued by the sending State;
- hold an A-2 non-immigrant visa;
- be at least 20 years of age;
- reside full-time in the metropolitan area of the consular post where recognition is requested;
- perform official functions on an essentially full-time basis (at least 35 hours per week);
- not engage in any professional or commercial activity in the United States (engaging in any professional or commercial activity, including gainful employment on the U.S. economy, is inconsistent with the VCCR and U.S. immigration laws);
- not be subject to pending criminal charges punishable by imprisonment (or have members of the family forming part of principal's household subject to such charges);
- not be convicted of charges punishable by imprisonment (or have members of the family forming part of principal's household subject to such charges); and
- other requirements, on the basis of reciprocity or as determined by OFM.

The only job title available in eGov for individuals seeking accreditation under this category is service staff.

Foreign missions are requested to also provide the Department with the functional titles of its members. In eGov, foreign missions are free to provide the most descriptive job title that applies to the duties performed (this is a free text field and does not require a selection from a pre-established list). Examples of positions held by service staff are drivers, chauffeurs, gardeners, caretakers, maintenance personnel, couriers, or messengers.

Personnel who are employed by the foreign mission, rather than by individual members of the foreign mission, and who are engaging in certain duties on mission premises or in furtherance of the official functions of the mission pertaining to the maintenance of the residence and

representational duties performed at the residence of the principal officer of a consular post, may also be members of the service staff of the foreign mission.

Individuals employed by a foreign mission member in a domestic or personal capacity, such as to cook, clean, or take care of children in the private residence of a foreign mission member should not be members of the service staff of the foreign mission.

The Department currently determines service staff at a consular post to be permanently resident in the United States for the purposes of the Vienna Conventions unless the employing foreign state confirms the following:

- the sending state paid the cost of the employee's transportation to the United States from the employee's prior residence;
- the sending state undertakes to transfer the employee and his or her members of the family forming part of the household out of the United States consistent with the sending State's transfer policy;
- the sending state undertakes to pay the cost of the employee's transportation from the United States to the employee's normal place of residence or to the country of the employee's next assignment at the end of the employee's tour of duty in the United States; and
- the individual receives an allowance for housing cost similar to what is afforded to a career consular officer.

Effective January 1, 2019, as part of the NOA, **the consular post is required to submit a letter signed by the head of the consular post or higher, confirming all requirements as listed above are met.**

In addition to the letter, the consular post must also provide documentation that conclusively demonstrates the sending state paid the cost of the employee's transportation to the United States, as well as that of any accompanying members of the family forming part of the household, from the employee's prior residence.

If the consular post is unable to meet the above requirements and provide the aforementioned documentation, the service staff member at the consular post would be accredited as permanently resident in for purposes of the Vienna Conventions (as seen in the section titled "Locally Engaged Staff – Permanently Resident in the United States for Purposes of the Vienna Conventions (Consular Post)").

The Department reserves the right to request additional documentation concerning this matter.

The Department reiterates the emphasis placed on the performance of traditional and accepted consular functions by accredited foreign mission personnel assigned to the United States. Accordingly, the Department generally does not accept for accreditation any person assigned to work in the United States, who is also a student or trainee at any college, university, vocational school, military institution, or private or governmental foundation, or who is engaged in any pursuit inconsistent with regular and accepted consular functions. For consular personnel

holding A visas, engaging in any professional or commercial activity, including gainful employment on the U.S. economy, is inconsistent with the VCCR, U.S. immigration laws, and Department policy.

### **3.2.3.1 Card Issuance**

Consular ID cards are issued to career service staff and are automatically processed upon accreditation.

Please refer to circular note No. 15-1169, available at <http://www.state.gov/documents/organization/250633.pdf>, for information about replacing a lost or stolen ID card.

### **3.2.4 Locally Engaged Staff - U.S. Citizens or LPRs (Consular Post)**

Consular posts must notify the Department of all LE staff hired to work at the consular post in the United States and not assigned or appointed by the Ministry of Foreign Affairs as a career official or employee.

LE Staff are generally U.S. citizens or LPRs.

The notification of U.S. citizens and LPRs is important to avoid running afoul of the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. §§ 611-21. Section 3 of that Act (22 U.S.C. § 613) requires the recognition of every employee's official status and knowledge of his/her activities by the Secretary of State in order to establish exemption from the requirement of registration as a foreign agent with the Department of Justice.

### **3.2.5 Locally Engaged Staff – Permanently Resident in the United States for Purposes of the Vienna Conventions (Consular Post)**

If a consular post wishes to hire an individual who is not a U.S. citizen or LPR and that individual will be performing services on an essentially full-time basis (at least 35 hours per week) for the consular post, such individuals may be eligible for designation by the Department as permanently resident in the United States for purposes of the Vienna Conventions. In order to be granted such status, individuals will be required to obtain an A-2 visa. Such individuals are expected to hold such status for no more than a total of five years.

Newly arrived personnel seeking recognition in this category, and those seeking to retain such status, must:

- hold an A-2 non-immigrant visa;
- be at least 20 years of age;
- reside on a full-time in the metropolitan area of the consular post and where recognition is requested;
- perform official functions on an essentially full-time basis (at least 35 hours per week);

- not engage in any professional or commercial activity in the United States (engaging in any professional or commercial activity, including gainful employment on the U.S. economy, is inconsistent with the VCCR and U.S. immigration laws);
- not be subject to pending criminal charges punishable by imprisonment (or have members of the family forming part of principal's household subject to such charges);
- not be convicted of charges punishable by imprisonment (or have members of the family forming part of principal's household subject to such charges); and
- other requirements, on the basis of reciprocity or as determined by OFM.

LE staff holding an A-2 visa notified to the Department prior to August 23, 2016, will be permitted to remain accredited and entitled to such status until August 22, 2021.

The Department reiterates the emphasis placed on the performance of traditional and accepted consular functions by accredited foreign mission personnel assigned to the United States. Accordingly, the Department generally does not accept for accreditation any person assigned to work in the United States, who is also a student or trainee at any college, university, vocational school, military institution, or private or governmental foundation, or who is engaged in any pursuit inconsistent with regular and accepted consular functions. For consular personnel holding A visas, engaging in any professional or commercial activity, including gainful employment on the U.S. economy, is inconsistent with the VCCR, U.S. immigration laws, and Department policy.

### **3.2.6 Employees Working Outside the Foreign Mission Premises (Consular Posts)**

Employees performing functions and physically working outside of the consular post premises but in the same metropolitan areas as that of the consular post (for example, at U.S. Government offices) are generally treated as members of the consular post in that metropolitan area and therefore should be notified to the Department as such. To ensure such matters are properly handled, consular posts are strongly encouraged to discuss such situations directly with OFM prior to submitting NOAs for these employees. Such discussions may be initiated by sending a message to [OFM-FMMA@state.gov](mailto:OFM-FMMA@state.gov).

### **3.2.7 Requests for Dual Accreditation in New York (Permanent Mission to UN & Consular Post)**

The Department views service on the staff of an IO as incompatible with the functions of personnel assigned to a consular post, whose principal concern must be to assist in the conduct of bilateral relations between the sending State and the United States as provided in VCCR Article 5.

This policy is premised on the significant difference in functions and the immunities enjoyed by persons with diplomatic agent level status as compared to most career consular officers.

The Department may give sympathetic consideration to exceptional circumstances where a member state of the UN would suffer serious hardship if it could not vest consular functions in a

person entitled to diplomatic immunity pursuant to Section 15 of the UN Headquarters Agreement. The Department may give particular consideration to situations where: (1) the condition of the economy of the applying state is such that it could not operate a career consular establishment unless it were staffed by a diplomat accredited to the UN; or (2) owing to the very small size of its diplomatic and consular service, it could not maintain a consular establishment unless it vested consular functions in a person entitled to diplomatic immunity. In order to justify a need to economize on expenses and personnel, the applying state must submit to the Department a statement presenting evidence in detail to support its allegation of hardship, as well as an explanation as to why refusal of dual accreditation would be disadvantageous to it.

If dual accreditation be granted, the exception made in each case is based on the merits of that application alone. The full application procedure must be followed for each person nominated in a dual capacity. As soon as conditions in the sending state permit, the Department expects that application for recognition of a person to serve solely in one capacity or the other would be made.

The Department may consider the dual accreditation of an individual performing administrative functions and duties as a consular employee as well as in connection with his/her government's representation to the UN.

### **3.2.8 Dependents (Consular Posts)**

#### ***3.2.8.1 Members of the Family Forming Part of the Household***

The definition of members of the family forming part of the household for purposes of the VCCR Article 53, and certain bilateral agreements, and therefore potentially eligible for privileges and immunities may, on the basis of reciprocity, include the principal's:

- Spouse;
- unmarried children under 21 years of age;
- unmarried children under 23 years of age who are attending an institution of higher learning on a full-time basis in the United States; and
- unmarried children 21 years of age or older who have a mental or physical disability and are recognized as dependents of the principal by the sending government, as demonstrated by eligibility for rights and benefits, such as the issuance of a diplomatic or official passport, or travel or other allowance.

Each member of the family forming part of the household must not be a member of some other household, must reside exclusively in the household of the principal, and must be recognized by the sending state as a family member forming part of the household of the principal, as demonstrated by eligibility for rights and benefits from the sending state. Other applicable conditions and requirements for each are described below. If the Department is not notified of a family member, then such individual is presumed to not be a member of the family forming part of the household for purposes of the VCCR.

More restrictive or generous policies may apply bilaterally on the basis of reciprocity.

### ***3.2.8.2 Members of Household***

The definition of “immediate family” members for purposes of the issuance of an A or G visa on a derivative basis (22 CFR 41.21; 9 FAM 402.3-4(J)) is not the same as the definition of “members of the family” for purposes of the VCDR and VCCR or “members of household” for purposes of notification.

Those individuals who are issued an A or G visa as “immediate family” but who are not spouses, or children as described above are considered to be members of household and do not enjoy any privileges or immunities. These generally include parents, parents-in-law, and overage children. Individuals who reside in a principal’s household and are a U.S citizen, LPR, or are issued a visa other than an A or G visa are also considered to be members of household and do not enjoy any privileges or immunities.

These individuals must be notified to the Department via the NOA (if arriving with the principal) or separately if arriving later than the principal.

### ***3.2.8.3 Card Issuance***

Consular ID cards are issued to member of the family forming part of the household who may enjoy some degree of immunity and are automatically processed upon accreditation. Dependent children are ineligible for a consular ID card.

Please refer to circular note No. 15-1169, available at <http://www.state.gov/documents/organization/250633.pdf>, for information about replacing a lost or stolen ID card.

### ***3.2.8.4 Dependent Work Authorization Program***

The United States has bilateral work agreements with well over 100 countries and de facto arrangements with several others. On the basis of these agreements and arrangements, certain dependents of certain foreign mission members may be authorized to work in the United States.

Members of the family forming part of the household are considered members of the foreign mission. Therefore members of the family forming part of the household, holding a derivative A or G visa and who work in a locally hired capacity at the principal’s mission of assignment are not required to obtain an EAD from USCIS for that position.

Married couples where both individuals are career officials or employees and are assigned career positions should be notified to the Department with the assignments of both principal employees. Neither are required to obtain an EAD.

Members of the family forming part of the household seeking employment may contact [OFM-EAD@state.gov](mailto:OFM-EAD@state.gov) for guidance.

The dependents of LE staff as defined in the section titled “Locally Engaged Staff – Permanently Resident in the United States for Purposes of the Vienna Conventions (Consular Post)” do not enjoy any privileges or immunities and are not eligible to apply for an EAD.

### **3.2.9 Consular Agents**

The Department considers consular agents only as those employed at consular agencies. As a result, the Department does not accept the assignment of consular agents or the use of this title at consular posts headed by a career consular officer or an honorary consular officer. Further, the Department does not consider consular agents to be heads of a career consular post. Thus, the Department’s policies and procedures related to the establishment and operation of consular agencies are formulated pursuant to Article 4 of the VCCR.

Consular agencies and agents may perform a wide range of functions in the United States; however, the Department expects the core of their mandate to be the provision of emergency assistance, as well as passport/citizenship and notarial services to foreign nationals resident in or visiting the United States. Consular agencies fall under the supervision of the embassy or consular post headed by a career consular officer.

For newly hired or arrived personnel to be recognized as a consular agent at a consular agency, and to retain such status, a person must:

- be a U.S. citizen or LPR;
- be at least 20 years of age;
- reside full-time in the metropolitan area of the consular agency and where recognition is requested;
- devote official activities to consular duties on an essentially full-time basis (at least 35 hours per week);
- not be subject to pending criminal charges punishable by imprisonment;
- not be convicted of charges punishable by imprisonment;
- be of good reputation in their community and may not use their service as a consular agent for their own private gain; and
- other requirements, on the basis of reciprocity or as determined by OFM.

Consular agents may not be recognized until the sending State has formally requested and received approval to establish the consular agency to which the employee is assigned. Consular activities may not be performed before the Department has recognized the consular agent.

Consular agents are able to provide a wide array of services to foreign nationals in the United States. Examples of such services include:

- notarize documents;



- visit foreign nationals in prison and advise the embassy or supervisory post of results;
- visit hospitalized foreign nationals and advise the embassy or supervisory post of results;
- assist destitute foreign nationals by providing information, but not funds without the express authorization of the embassy or supervisory post;
- accept passport applications and forward to the embassy or supervisory post for adjudication;
- conduct welfare/whereabouts checks for missing foreign nationals and advise the embassy or supervisory post of results;
- report information concerning the deaths of foreign nationals in the United States to the embassy or supervisory post;
- facilitate arrangements for the disposition of remains of deceased foreign nationals in the United States, upon instructions from the embassy or supervisory post in consultation with next of kin;
- prepare consular mortuary certificates;
- provide commercial liaison to visiting foreign business representatives;
- support and assist with visits by senior foreign government officials; and
- assist foreign national victims of common disasters or other crisis acting under the immediate supervision and as the agent of the embassy or supervisory post.

However, consular agents may not:

- authenticate documents;
- adjudicate applications for or issue passports;
- accept formal renunciation of foreign citizenship;
- take possession and dispose of the personal estate of a deceased citizen except under the immediate supervision and as the agent of the embassy or supervisory post;
- sign seamen on or off a ship; or
- act as an agent or attorney on behalf of a foreign national in a private legal dispute in the United States, but may make inquiries about the dispute under the immediate supervision and as the agent of the embassy or supervisory post.

Embassies or consular posts headed by a career consular officer are responsible for ensuring that adequate management controls are in place for consular agents.

The only job titles available in eGov for an individual's acceptance of accreditation at a consular agency are:

- Consular Agent
- Support Staff

### **3.2.10 Honorary Consular Officers**

The rules specific to the notification and recognition of honorary consular officers are addressed by OFM in circular note No. 16-1281, dated August 23, 2016, and the accompanying handbook, which can be found here: <http://www.state.gov/documents/organization/261430.pdf>.

### 3.3 Miscellaneous Foreign Government Office (MFGO)

The Department generally refers to foreign government offices in the United States that are not embassies or consular posts and that perform non-commercial and inherently sovereign functions as MFGOs. These offices are not governed by the VCDR or VCCR. The arrival and departure of MFGO employees must be notified to the Department via eGov. The sending state's embassy is responsible for the proper notification of MFGO employees, however, notifications may be handled by the MFGO.

While embassies are responsible for the functions and operations of the respective sending state's MFGOs, and the chiefs of mission are responsible for MFGO employees, the Department encourages embassies to permit individual MFGOs the ability to submit their own notifications of appointment, change, and termination via eGov.

MFGO employees do not hold diplomatic or consular titles and are not accorded diplomatic or consular privileges or immunities under the VCDR or VCCR. They may enjoy certain benefits, however, by virtue of their assignment to official duty in the United States.

Additionally, the Foreign Agent Registration Act of 1938, as amended, 22 U.S.C. §§ 611-621, requires officials who act as public relations counsels, publicity agents, or information service employees, as defined by the Foreign Agent Registration Act to register. Employees of MFGOs who engage in the promotion of travel, tourism, trade, or investment must also generally register. MFGO employees are encouraged to consult the Registration Unit of the Counterintelligence and Export Control Section of the Department of Justice, which can be reached by telephone at (202) 233-0776, regarding foreign agent registration requirements.

Newly arrived personnel seeking recognition in this category, and those seeking to retain such status, must:

- possess a valid diplomatic or official passport issued by the sending state;
- hold an A-2 non-immigrant visa;
- be at least 20 years of age;
- reside on a full time basis in the metropolitan area of the MFGO;
- perform official functions on an essentially full-time basis (at least 35 hours per week);
- not engage in any professional or commercial activity in the United States (engaging in any professional or commercial activity, including gainful employment on the U.S. economy, is inconsistent with U.S. immigration laws and Department policy);
- not be subject to pending criminal charges punishable by imprisonment (or have members of the family forming part of principal's household subject to such charges);
- not be convicted of charges punishable by imprisonment (or have members of the family forming part of principal's household subject to such charges); and
- other requirements, on the basis of reciprocity or as determined by OFM.

Missions are requested to also provide the Department with the functional titles of its members. In eGov, missions are free to provide the most descriptive job title that applies to the duties performed (meaning this is a free text field and does not require a selection from a pre-established list).

The Department reiterates the emphasis placed on the performance of traditional and accepted functions by foreign mission personnel assigned to the United States. Accordingly, the Department generally will not accept any person who is assigned to work in the United States who is also a student or trainee at any college, university, vocational school, military institution, or private or governmental foundation, or who is engaged in any pursuit inconsistent with regular and accepted consular functions. For MFGO personnel holding A visas, engaging in any professional or commercial activity, including gainful employment on the U.S. economy, is inconsistent with the VCCR, U.S. immigration laws, and Department Policy.

### **3.3.1 Locally Engaged Staff - U.S. Citizens or LPRs (MFGO)**

MFGOs must notify the Department all LE staff hired to work at the MFGO in the United States and not assigned or appointed by the Ministry of Foreign Affairs as a career official or employee.

LE Staff are generally U.S. citizens or LPRs.

The notification of U.S. citizens and LPRs is important to avoid running afoul of the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. §§ 611-21. Section 3 of that Act (22 U.S.C. § 613) requires the recognition of every employee's official status and knowledge of his/her activities by the Secretary of State in order to establish exemption from the requirement of registration as a foreign agent with the Department of Justice.

The Department reiterates the emphasis placed on the performance of traditional and accepted functions by foreign mission personnel assigned to the United States. Accordingly, the Department generally will not accept any person who is assigned to work in the United States who is also a student or trainee at any college, university, vocational school, military institution, or private or governmental foundation, or who is engaged in any pursuit inconsistent with regular and accepted consular functions. For MFGO personnel holding A visas, engaging in any professional or commercial activity, including gainful employment on the U.S. economy, is inconsistent with the VCCR, U.S. immigration laws, and Department Policy.

## **3.4 NATO**

NATO employees should only be notified to the Department if they are requesting an EAD for their eligible dependents. Such employees should be notified at the time the EAD application is submitted and terminated when departing command.

All NATO employees notified to the Department for the purpose stated above should hold NATO 1-4 and NATO-6 visas and be notified to either NATO Headquarters (NATO Allied

Command Transformation) or NATO Representative Office. The only position type and job title available in eGov is NATO SOFA.

NATO employees notified to the Department for the purposes of obtaining an EAD hold no diplomatic or consular titles and are not accorded diplomatic or consular privileges or immunities under the VCDR or VCCR.

### **3.5 Other Foreign Missions for Purposes of the Foreign Missions Act**

Rules and procedures associated with the notification of employees of entities designated as foreign missions in the United States for purposes of the Foreign Missions Act (22 U.S.C. §§ 4301-4316 as amended) may differ. Such entities are separately provided instructions concerning this matter.

## **4 Notification of Change (NOC)**

All dependents and changes in household must be notified to the Department, including:

- Legal name change (must provide new visa information, if applicable, proof of legal name change, and a copy of ID with new name);
- change in residential address;
- change in duty address;
- change in marital status (must provide new visa information, if applicable, and marriage certificate or divorce decree or a note from the embassy stating that due to divorce or separation the couple no longer reside the same household);
- change in nonimmigrant visa status;
- change in immigration status (must provide relevant supporting documents) (e.g., adjusting to LPR status);
- change in job title;
- late arrival of dependents;
- birth or adoption (must provide birth certificate or adoption records);
- departure or death of dependents; and
- change into justified student status (please see below).

### **4.1 Full-time Justified Students**

As a general policy, children no longer enjoy privileges and immunities beginning on their 21st birthday, unless they are determined to be full-time students or disabled.

Unmarried children who are attending an institution of higher learning in the United States on a full-time basis may continue to enjoy privileges and immunities until their 23rd birthday, but only if the mission submits biannually a diplomatic note along with a certified statement from

the school's registrar (unofficial copies of transcripts will not be accepted) verifying the number of credit hours for which the child is enrolled in the current semester and the anticipated graduation date. Such supporting documents must be submitted one month prior to the start of the upcoming semester. Full-time students who are not taking summer classes can continue to have full-time justified student status over the summer upon the foreign mission's submission of diplomatic note certifying that the student is planning on continuing its education on full-time basis in the upcoming fall semester. Such children are generally considered to reside exclusively in the principal's household even if attending an institution of higher learning elsewhere in the U.S. Only students attending an institution of higher learning in the United States on a full-time basis will enjoy privileges and immunities under these guidelines, unless reciprocity is otherwise established.

More restrictive or generous policies may apply on the basis of reciprocity.

## **5 Notification of Termination (NOT)**

Foreign missions must promptly submit an NOT via eGov for personnel at the conclusion of their assignment in the United States, or for any personnel terminating their diplomatic or consular duties to engage in other pursuits. All privileges and immunities, if any, enjoyed by the principal and his/her family members in the United States terminate upon departure or 30 days after termination, whichever comes first, unless in a particular case a different time has been specified by the Department.

Whenever any person accorded status as a dependent in the United States ceases to reside with the principal (other than a student attending boarding school or college as described above), such person immediately ceases to be a member of the family forming part of the household within the meaning of the VCDR and VCCR or accepted as a member of household. In such cases, the mission must notify the Department. Accordingly, all immunities, if any, previously enjoyed by such person would terminate upon departure or 30 days after ceasing to be a member of the family forming part of the household of the principal, whichever comes first, unless in a particular case a different time has been specified by the Department.

Individuals generally have 30 days following termination or change in family circumstance to depart the United States or seek a change or adjustment of their status. For exceptional circumstances, individuals may request an extra 30 days in advance, for a total of 60 days following their termination or change in family circumstance. This requests may be sent to OFM-FMMA@state.gov.

All Department-issued documents must be returned to the Department within 30 days of termination of employment.

If an employee is transferring from one foreign mission post to another in the United States, the foreign mission must submit an NOT via eGov for the prior position and an NOA via eGov for the new position. When a principal completes his/her tour of duty, and a NOT is processed by OFM, any family members working at the mission will also be terminated.

## 6 Immunities

The VCDR, VCCR, and certain bilateral agreements govern the privileges and immunities for diplomatic missions, consular posts, and their personnel and families. Certain representatives to IOs and officers and employees of IOs may enjoy privileges and immunities under the IOIA and various agreements.

In the case of accredited embassy or consular staff enjoying some level of privileges and immunities whose assignment lasts more than six years, the Department may seek confirmation of continued posting by transmitting a note directly to the sending State's Ministry of Foreign Affairs.

Articles 37 and 38 of the VCDR and Article 71 of the VCCR generally provide that mission members and their families enjoy limited or no privileges and immunities if they are nationals of or permanently resident in the receiving State. Consequently, the mission must promptly notify the Department when any employee or family member obtains LPR status or U.S. citizenship, and it is understood that privileges and immunities will be withdrawn whenever appropriate. As noted above, diplomatic agents and career consular officers are not permitted to be U.S. citizens or LPRs.

Persons assigned to temporary duty at a mission for less than 90 days generally do not enjoy privileges and immunities in the United States. In some circumstances, a principal or dependent will be eligible for an A or G visa and not enjoy privileges and immunities.

If an individual is not notified to the Department within 30 days of arrival, such person may be presumed to enjoy no privileges and immunities.

Children born in the United States to parents who have diplomatic agent level immunity generally do not become U.S. citizens at birth (unless one of the parents is a United States citizen). Because immunities are governed by international conventions, bilateral treaties, and agreements governing international organizations, citizenship determinations regarding children born in the United States to foreign mission personnel and employees of international organizations must be made on a case-by-case basis. Parents who believe their children are U.S. citizens, are encouraged to apply for a U.S. passport to obtain a determination of citizenship for their child. In limited cases, following the notification to OFM of the birth of a child in the United States, communication may be sent from the Visa Office advising the foreign mission or impacted family that the child may be entitled to A or G nonimmigrant visa status. Such children may apply for a visa. More information can be found in the Department's diplomatic note No. 18-1137.

### 6.1 Duty to Respect Laws

Under international law and practice, persons enjoying immunity from the jurisdiction of a receiving State's laws nonetheless have a duty to respect those laws. Immunity is not a license for misconduct. It is a doctrine intended to benefit the sending State or IO, not individuals. The

Department policy for enforcement of these principles and for responding to the abuse of such immunities is described in 2 FAM 233-234.

OFM wishes to highlight that if outstanding debts are not settled within a reasonable period (not exceeding six months), continued reliance on immunity to evade a debt may affect a mission member's continued acceptability in the United States, to the extent consistent with U.S. international obligations. The departure of a mission member without settlement of outstanding debts may affect the Department's ability to accept a replacement and may also result in the United States taking such measures as may be appropriate.